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Women in Latin America

LEGAL RIGHTS AND RESTRICTIONS

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Foreword

In order to make available a brief nontechnical discussion of the subject, the Women's Bureau has reprinted the principal parts of an address given by Miss Mary Cannon before the Forty-eighth Annual Meeting of the National Association of Women Lawyers in Cleveland, September 19, 1947. The full text appeared in the Winter 1948 number of the Women Lawyers Journal. The legal information was obtained from the Inter-American Commission of Women.

Legal rights and restrictions affecting women of the Latin American countries are presented here, not by a lawyer considering the statutes technically, but by a person who has lived in South America and who has had an active interest in women's organizations. The facts are presented from the point of view of one who knows and understands the realities that underlie the laws.

Miss Cannon was appointed the United States Delegate to the Inter-American Commission of Women in 1944. The headquarters of the Commission is in the Pan American Union in Washington, D. C. Miss Cannon is also Chief of the International Division of the Women's Bureau, United States Department of Labor.

The Early Years

Before talking about the present legal position of women in Latin American, I want to sketch briefly something about the first women of the other American Republics, because those early years form an important background to understanding later social developments.

You will remember that, for the most part, the first men who came to the other Americas were the "conquistadores," who were seeking gold and other riches for the Spanish and Portuguese crowns, and who brought with them priests seeking new souls for the Catholic Church. These "conquistadores" did not come to stay, and the men who arrived later came without wives or families. They brought the traditions and social conventions of Portugal to Brazil and of Spain to the other countries—traditions and social conventions that later prescribed the home and the church as

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the limits of women's interests and activities. They brought also a feudal system to the only industry of those years, agriculture—a system which has meant large land holdings and in some instances virtual slavery for the indigenous people, men and women who were living on the land. When women from Europe finally came to these new lands of America, they were responsible for managing the homes and servants, and often they assisted in the administration of the large farms. Like pioneer women in all countries, their responsibilities were not insignificant nor was their work easy. Later the women who were the wives and daughters of the landlords, surrounded by servants and comfort, lived in sharp contrast to the wives and children of those who worked on the land.

Heroic Women

There are many stories of the heroic roles women played in the early histories of their countries. In Mexico in the town of Patzcuaro there is a statue of Gertrudes Bocanegra, a young "mestizo" woman who was tortured and killed by the Spaniards in the war of independence because she was carrying information to the rebels. Women of other countries made sacrifices during the years of the struggle for independence from Spain. Women of the wealthy families of Mendoza, a city at the foot of the Andes in Argentina, gave their jewels to help finance the campaign of General San Martin when he with his army crossed the Andes to take the war of independence to Chile. In Paraguay the wives of soldiers accompanied the troops to take care of the wounded and to cook the meals. In all countries women have helped the making of the secret plans for independence. In later years they have helped map out changes in governments, many times keeping watch at the front door of their homes while the men were working in more remote rooms.

In Guatemala the wife of an early governor assumed the responsibilities of the office when her husband was killed. In Brazil the daughter of Don Pedro the Second, who in her father's absence was head of the government, signed the decree freeing the slaves in 1888. So in the Americas, from earliest years, there have been women who have played important roles in the development of their countries, in spite of traditions and social conventions that still hold for the majority of women.

Early Law Prevails

There are still republics of the continent whose statutes follow rigidly the legislation existing in the times of Ferdinand II. For example, one country, modern and progressive in many respects, has conserved to the present a penal code which provides that the condition of being a minor, a deaf-mute, or a woman is considered an extenuating circumstance in cases of criminal liability, and it further stipulates "as a general rule, for purposes of determining the penalty to be imposed: deaf-mutes shall be given the same consideration as minors over 15 and under 18 years of age;

and the same consideration shall apply to women and to the insane who commit an offense during a lucid interval."

There are five countries of America in which the husband is exempt from criminal responsibility if he kills his wife on surprising her in the act of adultery; one in which the father is not punished by law, or is subject only to a minimum penalty, if in similar circumstances he kills a young daughter less than 21 years of age who lives in the paternal household. Again, there are five countries in which the elemental right of inviolability of correspondence does not hold true for married women. The punishments of imprisonment and fine do not apply to the husband in regard to papers or letters of the wife, and under certain circumstances he is often authorized to open communications which she addresses to other persons.

Status of Married Women

There are brighter spots in this picture too. In nine countries—Costa Rica, Colombia, Cuba, El Salvador, Honduras, Mexico, Nicaragua, Panama, and Uruguay—married women are independent under the law in the ownership and management of separate property; they have the right to appear in court and to execute and sign documents; they are legal persons; they have the right to make contracts of personal services and to collect their earnings. When I was in Paraguay 3 years ago, I was told that Paraguayan women own property, buy and sell as they please, without paying any attention to the technicalities of the laws.

On the other hand, I have an interesting example of the laws governing property rights of married women tripping up a business deal. Two Chilean friends of mine recently started a tourist agency in Santiago. Both are very well known. In order to have enough capital for their new undertaking, they needed to borrow money. One of them, who has a good position in government, went to the bank and talked to an old friend who had known her and her family for years. He said of course she could have the money, 35,000 pesos. She signed the note, went back and told her partner everything was fixed. As treasurer of the partnership, she very soon was writing checks. Shortly, a call came from the bank saying that the tourist agency account was overdrawn. She was dumfounded. "How could that be, for only a few days ago 35,000 pesos of the bank's own money had been credited to the account?" The bank was very apologetic. The friend who had talked with her had forgotten that a law of Chile does not permit married women to borrow money on their own signature. It was necessary for her husband to sign the note also. Although my friend is devoted to her husband, she was exasperated by the whole episode, and when she recounted it ended by saying: "Imagine, my husband had to sign the note, and at that moment he did not have a job."

Since the Eighth International Conference of American States, held in Lima, Peru, in 1938, a few

interesting changes have been made in the legal status of women. In Uruguay women have acquired full property rights. In Haiti and the Dominican Republic women have obtained the right to keep and administer the earnings of their own work. In Chile women benefited from the establishment of the right of husband and wife to declare and to obtain by court action a separation of their properties which had been held together during their marriage.

Guardianship of children is another point at which there has been and still is discrimination against married women. I understand that guardianship, "patria potestad," as it is termed in the Latin American countries, implies guardianship not only of the persons of minors, but over any property they may own. In two countries, Mexico and Uruguay, fathers and mothers have equal rights of guardianship. In other countries where it is stated in the law that fathers and mothers shall have equal guardianship, clauses are added stating: "but the father as head of the family . . ." etc., etc. The tradition of the Latin American home tends to give guardianship to the father rather than to the mother. In all but four countries widows have the right of guardianship of their children. In six countries they lose this right if they remarry, and in three the judges must decide whether or not they lose the guardianship of their children if they remarry.

Women in the Professions

Women have access to all national universities. Colombia in 1938 was the last country to open the doors of the universities to women. In three American Republics women do not yet enjoy the same privileges as men in practising some professions; in one of these Republics they are not able to participate in the very important field of law. In the eight countries I have visited there are women lawyers, and in Brazil particularly there was a surprising number. This may be due partly to the fact that until fairly recently Brazil did not have a college of liberal arts in the university, so that young women who went to the university had to study for a profession, and a number chose law. Some women lawyers have their own offices; others are working for private concerns or for their government. The way has not been easy. Women have told me how badly they were treated when they first went to the universities. Men students were disdainful, professors made it difficult to pursue the studies, and when the women came to their final examinations, the boards of examiners, all men, did everything they could to keep them out. Nor has it been easy for women to practice the professions. But the first women, who had the courage and determination to try and to persevere, broke down the worst barriers and a great deal of progress has been made.

Political Rights of Women

Women now enjoy national suffrage on the same terms as men in

10 of the other American Republics—Ecuador, Brazil, Uruguay, Cuba, El Salvador, Dominican Republic, Guatemala, Panama, Venezuela, and Argentina. They have suffrage in some of the states of Mexico and municipal suffrage in Mexico, Chile, Peru, and Bolivia. Argentina is the latest country to give women national suffrage. In Venezuela women voted in the elections held last year for a Constitutional Assembly and 12 were elected to that Assembly. This year, 1947, the new constitution gave Venezuelan women the right to vote.

After the United States, the women of Ecuador in 1929 were the first to have the right to vote in national elections. Women told me when I was there that their early constitution had not stated that women could not vote, and as early as 1906 a woman went to the polls as a test. There was great discussion, and finally she was allowed to cast her vote. National suffrage for women was written into the Constitution in 1929.

Women's political rights in some of the American Republics have been caught between the political forces of the conservatives and the liberals. Each side says it is afraid to let women vote for fear they will throw the majority to the other side. However, there is a strong movement for national suffrage for women in some of the other countries. In Bolivia a committee of women established to cooperate with the Inter-American Commission of Women has sent a proposed bill to Congress. In Chile where women have been working for a long time for national suffrage, the bill giving women the right to vote in national elections has been approved by the Senate and by the House committee on legislation and justice. The wife of the President of Chile, who worked with women's organizations before she became the First Lady of the Land, continues her interest and her support of women's efforts to obtain national suffrage. The Minister of Government in Colombia has introduced such a bill, and in Costa Rica a constitutional amendment giving women the right to vote has been presented by the Government. There is a movement for woman suffrage under way in Peru also.

No doubt this surge of interest is due in part to the resolution, adopted at the Chapultepec Conference of American States, calling on the American Republics to give women their civil and political rights, and also to the Charter of the United Nations which includes in its preamble: ". . . faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations, large and small, ..."

Women in countries like Argentina, Brazil, and Chile say that the first notable change in their status came after the first world war, for the forces that then shook tradition and customs in other countries affected them also. It seems to me that wars affect all social patterns, very much as powerful earthquakes affect the earth and surface struc-

tures. Foundations are shaken, shifts occur, walls crack, tremors are felt in areas remote from the active center, and countries far distant discover that something strange has happened to them. Certainly the whole world has been shaken by the second world war as by a mighty earthquake. Old patterns have changed not only for women but for entire peoples.

Women in Office

In the countries in which women do have suffrage, they not only vote but are elected to national and state legislatures, to city councils, and to other offices. They are elected mayors of cities, and a few have been governors of states. There has been a rumor that there will be a woman candidate for President of Cuba, but only a rumor.

For the second time in Uruguay there are four women in the legislature—two in the Senate and two in the lower House. Two of these are serving a second term. Cuba has one woman senator and five representatives. In Panama two women (and one substitute) were elected to the Constitutional Convention which became the regular Congress of that Republic. In the Dominican Republic a woman who was a senator is now governor of one of the States, and there is one woman in Congress.

After his election President Aleman of Mexico appointed two women as mayors of municipalities. A woman was at one time mayor of Santiago, the capital of the Republic of Chile, and two other women have been mayors of Providencia, a nearby important suburb. In Peru in 1945 forty women were named to interim municipal councils.

Unfortunately, no women in Brazil now are members of the national legislature. However, they were in both national and state legislatures before ex-President Vargas disbanded all elective offices in 1937. Brazilian women have also been mayors of cities and have been elected to other public offices. They were active members of political parties in the last Presidential elections.

The participation of women in political parties is significant, for even in countries where they do not have national suffrage they are not outside political currents. This is especially true of Chile, where they are active members of political parties and vote in the elections of the parties for their candidates.

I do not want to leave the impression, a wrong impression, that all women of the American Republics are interested in national and international politics or in having the vote, for that is not true, even as it is not true in the United States. Those who are interested, the vanguard, work often against definite opposition and, worse still, against indifference. Those leaders are important, and their influence is out of all proportion to their numbers. They are doing the kind of work which will some day make it possible for other women to function as full citizens of their countries.

Our neighbors of the other American Republics face us with tough questions sometimes. They ask: "Has women's suffrage made any

difference to the people of the United States? Do they have better schools, better health and recreation facilities, better housing, better working conditions because women vote? Has it made any difference in State and national politics and policies? Why aren't there more women in national and State legislatures? in other elective offices," they want to know. "Seven women representatives in your national Congress is a very small number. You have had economic independence, educational opportunities for a long time, and the right to vote since 1920. What have you done with your opportunities?"

The Inter-American Commission of Women is preparing a report on the civil, political, economic, and social status of women in the Americas for the next International Conference of American States, to be held at Bogota, Colombia. Discriminations against women, outmoded statutes, will be pointed out for correction. Two bulletins have been published in English and Spanish by the office of the Commission in preparation for the Conference; others will follow. As your representative on the IACW, I will see that copies are sent to all who are interested.

At former conferences the Commission has obtained the adoption of recommendations which would give women equal civil and political status. At the Bogota Conference the Commission proposes to ask for a pact or treaty that will place an inescapable obligation on those countries which have not yet lived up to their promises.

The Commission wants and needs the backing of women, of their organizations, of the United States, and of all the American Republics. I hope we can count on the continued support of the National Association of Women Lawyers.

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